

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte NIGEL ANDREW JUSTIN DAVIES and
PIERRE-GUILLAUME RAVERDY

Appeal 2007-0997
Application 09/875,670
Technology Center 2100

Decided: July 2, 2007

Before LANCE LEONARD BARRY, MAHSHID D. SAADAT, and
ST. JOHN COURTENAY, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's
Final Rejection of claims 1, 3-10, 19, 25-29, 33, and 35-46. Claims 2, 11-

18, 20-24, 30-32, and 34 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

Appellants' invention relates to a method and a system for integrating internet protocol (IP) devices into a home audio/video initiative (HAVi) network. According to Appellants, an IP and HAVi compliant device acts as a controller in the HAVi network communicating with a proxy included in the IP device. The IP device further provides for IP and HAVi application programming interface (API) to translate and relay calls between the proxy and the server so as a plurality of IP devices may communicate with a number of HAVi devices via an IP protocol. (Specification 8-9; Figure 2).

Independent Claim 29 is exemplary and reads as follows:

29. A method of integrating an Internet protocol network device into a home audio/video network comprising:

coupling an Internet Protocol network device to a home audio/video network device acting as a controller, the Internet Protocol network device coupled to the home audio/video network device through a connection using an Internet Protocol, the Internet Protocol network device including a proxy that communicates with a server on the controller;

accessing an application programming interface and proxy on the Internet Protocol network device to translate and relay information to the server, the application programming interface compliant with a dedicated home audio/video network protocol and the Internet Protocol; and

controlling each one of a different home audio/video network device and the Internet Protocol network device by the other of the devices through the proxy.

The Examiner relies on the following prior art in rejecting the claims:

Cheng	US 2001/0032273 A1	Oct. 18, 2001
Yamadaji	US 6,694,363 B1	Feb. 17, 2004

Claims 1, 3-10, 19, 25-29, 33, and 35-46 stand rejected as being unpatentable under 35 U.S.C. § 103(a) over Cheng and Yamadaji.

Rather than repeat the arguments here, we make reference to the Briefs and the Answer for the respective positions of the Appellants and the Examiner.

We reverse.

ISSUE

Appellants contend that Cheng's proxy 320 cannot be equated with Appellants' claimed proxy on an IP device such as server 180 because Cheng states that the IP device does not need to be modified to work with the bridge (Br. 4). The Examiner refers to the "HAVi To Web" thin glue layer 220 and the "Web To HAVi" thin glue layer 260 in Cheng and argues that the proxy on these glue layers is the same as the proxy on an IP device (Answer 9). Therefore, the issue on appeal turns on whether a preponderance of the evidence before us shows that the combination of the prior art teaches or suggests the claimed subject matter and specifically an IP device including a proxy that communicates with a server on a HAVi network device which acts as a controller.

FINDINGS OF FACT

1. Cheng relates to bridging a non-IP network and the Internet Web using thin glue layers, which translate between IP protocol and HAVi API (§ 0011).

2. As depicted in Figure 2, Cheng provides for a bridge between Internet 170 and a HAVi network 130 via two thin glue layers 220 and 260 (§ 0023).

3. The only proxy is shown as HAVi Web proxy client 310 and HAVi Web proxy 320 included in the block diagram of the thin glue layer 220, as shown in Figure 3 (§ 0027).

4. The IP Web client 330 allows messaging between the HAVi-specific application 230 and the Internet Web server 180 (§ 0031). However, Cheng does not show a server on the controller nor a proxy included in the IP network device, as recited in claim 29.

5. Cheng does not explain how a message is communicated between each one of a HAVi network device and the IP network devices, as recited in claim 29.

PRINCIPLES OF LAW

A claimed invention is unpatentable as obvious “if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said

subject matter pertains.” *See* 35 U.S.C. § 103(a) (2002); *In re Dembiczak*, 175 F.3d 994, 998, 50 USPQ2d 1614, 1616 (Fed. Cir. 1999).

Further, a rejection based on section 103 must rest upon a factual basis rather than conjecture, or speculation. “Where the legal conclusion [of obviousness] is not supported by the facts it cannot stand.” *In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967). *See also In re Lee*, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002) and *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006).

ANALYSIS

The Examiner does not show where the prior art teaches or suggests that a proxy is included in the IP network device. Although the Examiner does not clearly define the IP device in the disclosure of Cheng, we agree with Appellants that Cheng’s proxy which is included in the glue layer cannot be equated with the claimed proxy on an IP device.

Similarly, the Examiner’s assertion that the glue layers allow either the HAVi device or the Web server to control each other (Answer 10), ignores the specific recited features of the claim that requires each one of a different HAVi device and the IP device be controlled by the other devices through the proxy. In Figure 3 of Cheng, the Web server 180 would not be able to control HAVi device 250 through the proxy in the glue layer.

Thus, we find that the Examiner’s rejection rests on speculation and less than a preponderance of the evidence and thus, fails to provide sufficient basis for finding claim 29, as well as claims 1, 3-10, 19, 25-28, 33, and 35-

46 which include similar limitations, unpatentable for obviousness under 35 U.S.C. § 103(a) over Cheng and Yamadaji.

DECISION

The decision of the Examiner rejecting claims 1, 3-10, 19, 25-29, 33, and 35-46 under 35 U.S.C. § 103 is reversed.

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REVERSED

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